

## **REMARKS**

The undersigned counsel for the Applicants is not listed on the Applicants' Power of Attorney. However, a new and revised Power of Attorney will be filed in the near future. Therefore, Applicants respectfully submit that the Patent Office accept this Amendment under 37 CFR § 1.33(b)(2) and 1.34.

With the present Amendment, claims 1-16, 18-30 and 32 are pending. Claims 17-23 stand objected to under 37CFR § 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have amended the claims to place the claims in proper dependent form.

Claim 15 and 26-32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claim 15 has been amended to depend from claim 3 thereby providing antecedent basis for the limitation of "the spunbond layer." Further, claims 26-30 and 32 have been amended to remove the confusing language referring to the basis weight. Applicants respectfully submit that claims 15 and 26-30 and 32 have been properly amended so that the claims particularly point out and distinctly claim the subject matter, which the Applicants regard as their invention.

Also, claims 1-32 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 10/657,498. Without commenting on the proprietary of this provisional rejection, Applicants are in the process of preparing a terminal disclaimer, which will be filed in the near future, with respect to the 10/657,622 Application, pursuant to 37 CFR § 1.321(c).

Claims 1-5 and 7 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Thomas, et al. (U.S. Patent No. 6,049,024). Claims 24-27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Goldwasser (U.S. Patent No. 6,183,847). Claims 6, 9, 10-12, and 16-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas, et al. in view of Goldwasser. Claims 6, 9, and 10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas, et al. in view of Jankevics, et al. (U.S. Patent No. 6,139,941). Claims 8, 13-19, 22, 24, 25, 28, 29, and 30-32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas, et al. and Jankevics, et al. in view of Varona, et al. (U.S. Publication No. 2004/0127873 A1). Further, claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas, et al., Jankevics, et al. and Varona, et al. and further in view of Vukos, et al. (WO 02/34184).

Respectfully, the disposable garments called for in claims 1 and 16 patentably define over the cited prior art. Specifically, the relevant cited prior art does not disclose, teach, or suggest a bodyside liner including a nonwoven fabric laminate with a thin layer of fine fibers having an average pore size less than the average diameter of absorbent particles of the absorbent material in the disposable garments. Also, the bodyside liner called for in claim 24 patentably defines over the relevant cited prior art because the prior art does not disclose, teach, suggest that the bodyside liner has a layer of meltblown fibers with pore sizes less than about 25 microns. Further, the bodyside liner in the cited prior art does not have a SAM retention level of greater than 95 percent using the SAM Shake Test.

Claim 1 claims a disposable garment for adsorption and containment of urine and other body exudates. The disposable garment includes a liquid impervious sheet and a liquid pervious bodyside liner. The bodyside liner includes a nonwoven fabric laminate that has a thin layer of fine fibers. The disposable garment also includes absorbent material formed by absorbent particles disposed between the liquid pervious bodyside liner and the liquid impervious back sheeting. The thin layer of fine fibers of the bodyside liner's nonwoven fabric laminate has a basis weight of less than 2.5 grams per square meter. Further, the average pore size of the thin layer of fine fibers is less than the average diameter of the absorbent particles.

Claim 1 was rejected as being anticipated by Thomas et al. Thomas, et al., however, does not disclose that the average pore size of the thin layer of fine fibers should be smaller than the average diameter of absorbent particles as called for in claim 1 of the present application. Thomas, et al. discloses using finer meltblown fiber in theory to bridge voids between larger spunbond filaments to improve the SMS nonwoven as a fluid barrier (See col. 4, ll. 5-10), not to keep absorbent particles within a disposable garment. In fact, Thomas, et al. teaches away from using the thin layer of fine fibers to prevent absorbent particle migration. Thomas, et al. concentrates on using a spunbond layer to provide sufficient barrier to migrating superabsorbent particles rather than the use of the meltblown layer as is made clear in Col. 6, ll. 5-17 of that specification. Therefore, Thomas, et al. cannot anticipate or be used to render obvious claim 1 of the present application.

Similarly, Thomas et al. cannot be used to render claim 16 obvious. Claim 16 claims a disposable garment for adsorption and containment of urine and other body

exudates. The disposable garment includes a liquid impervious sheet and a liquid pervious bodyside liner. The bodyside liner includes a nonwoven fabric laminate that has a layer of spunbond fibers and a layer of meltblown fibers. The disposable garment also includes absorbent material formed by absorbent particles disposed between the liquid pervious bodyside liner and the liquid impervious back sheeting. The layer of meltblown fibers of the bodyside liner's nonwoven fabric laminate has a basis weight of less than 1.5 grams per square meter. Further, the average pore size of the layer of meltblown fibers is less than the average diameter of the absorbent particles.

Claim 16 was rejected as unpatentable over Thomas, et al. in view of Goldwasser. Neither Goldwasser nor Thomas, et al. disclose, teach, or suggest a layer of meltblown fibers with an average pore size that is less than the average diameter of the absorbent particles contained in a disposable garment. Goldwasser is silent regarding meltblown fiber size and does mention anything about the expected pore size of the meltblown fiber layer. As stated above in reference to claim 1, Thomas, et al. is silent about the pore sizes of the meltblown fiber layer, particularly with respect to absorbent particles of the absorbent core. Further, Thomas, et al. actually teaches away from such a meltblown fiber layer because it concentrates on using a spunbond layer of an SMS nonwoven laminate to prevent migration of such particles, instead of the meltblown fiber layer.

Claim 16 was also rejected as unpatentable over Thomas, et al. in view of Jankevics, et al. and further in view of Varona, et al. Varona, et al., however, only qualifies as prior art under 35 U.S.C. § 102(e). Both Varona, et al. and the current application, at the time the inventions were made, were subject to an obligation of

assignment to Kimberly-Clark Worldwide, Inc. The current application and Varona, et al. are assigned to Kimberly-Clark Worldwide, Inc. Accordingly, Varona, et al. is not considered prior art for purposes of 35 U.S.C. § 103(a) pursuant to 35 U.S.C. § 103(c). Thus, for at least these reasons stated above, claim 16 is patentably distinguishable from the cited prior art.

As with claims 1 and 16, claim 24 is also distinguishable from the prior art. Claim 24 claims a bodyside liner of a nonwoven fabric laminate that consists essentially of a first layer of spunbond fibers, a second layer of spunbond fibers and a layer of meltblown fibers. The layer of meltblown fibers has a basis weight of ranges from 0.06 grams per square meter to about 1 gram per square meter. The pore sizes of the layer of meltblown fibers are less than about 25 microns. Further, the bodyside liner has a SAM retention level of greater than 95 percent using the SAM Shake Test.

Claim 24 was rejected as being anticipated by Goldwasser. However, Goldwasser, as stated above, is silent about pore sizes of its meltblown layer. In particular, Goldwasser does not disclose the pore sizes in its meltblown layer being less than about 25 microns. The coverstock of Goldwasser does not disclose and cannot achieve a SAM retention level of greater than 95 percent using the SAM Shake Test. Therefore, Goldwasser cannot anticipate claim 24.

Claim 24 was also rejected as being unpatentable over Thomas, et al. in view of Jankevics, et al. and further in view of Varona, et al. As stated above, Varona, et al. and the present application were subject to an obligation of assignment to Kimberly-Clark Worldwide, Inc., at the time the inventions were made. Further, Varona, et al. only qualifies as prior art under 35 U.S.C. § 102(e). Therefore, Varona, et al. is not

considered prior art for purposes of 35 U.S.C. § 103(a) according to 35 U.S.C. § 103(c). Thus, claim 24 cannot be rejection under 35 U.S.C. § 103(a) by the above combination of references.

In any event, neither Thomas, et al. nor Jankevics, et al. disclose, teach, or suggest, in combination or alone, that the pore sizes of the meltblown layer should be less than 25 microns or that the bodyside liner has a SAM retention level of greater than 95 percent using the SAM Shake Test as called for in claim 24. Thomas, et al. does not disclose pore sizes of its meltblown layer. As stated above, Thomas, et al. is more concerned about preventing absorbent particle migration at a spunbond fiber layer. Jankevics et al. only discloses average pore sizes of 15-50 microns for the whole SMS nonwoven discussed therein. In other words, the laminate of Jankevics, et al. with its three integrated layers as a whole contains the pore sizes specified therein and not just its meltblown fiber layer.

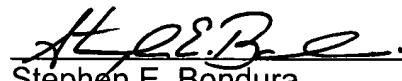
The nonwoven laminate of claim 24 has improved retention capabilities of absorbent particles because the layer of meltblown fibers by itself has such minuscule pore sizes of below about 25 microns. The added layers of spunbond fibers only aid in further reducing the pore sizes of the whole laminate of claim 24 and increase the bodyside liner's ability to prevent the migration of the absorbent particles. For these reasons, the coverstock of neither Thomas, et al. nor Jankevics, et al., alone or in combination, can obtain a SAM retention level of greater than 95 percent using the SAM Shake Test. Therefore, these references cannot render claim 24 obvious.

For at least the reasons set forth above, independent claims 1, 16, and 24 are patentably distinguishable from the prior art and are now allowable. Since claims 2-15

depend from claim 1, claims 18-23 depend from claim 16, and claims 25-30 and 32 depend from claim 24, Applicants respectfully submit that claims 2-15, 18-23, 25-30 and 32 are also allowable. Applicants submit that the application is now in condition for allowance and favorable action thereon is respectfully requested. The Examiner is encouraged to contact the undersigned at her convenience to resolve any remaining issues.

Respectfully submitted,

DORITY & MANNING, P.A.

  
Stephen E. Bondura  
Registration No.: 35,070

DORITY & MANNING, P.A.  
P.O. Box 1449  
Greenville, SC 29602-1449  
Phone: (864) 271-1592  
Facsimile: (864) 233-7342

Date: 5/31/05